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82 N. E. 275; *Rees v. Rees*, L. R. 3 P. & D. 84. Inclusion in a single sealed envelope would seem to be enough physical connection. *Martin v. Hamlin*, 4 Strob. L. (S. C.) 188.

BOOK REVIEWS

THE LIFE OF JOHN MARSHALL. By Albert J. Beveridge. Vol. III: Conflict and Construction (1800-1815). pp. xxii, 644. Vol. IV: The Building of the Nation (1815-1835). pp. xviii, 668. Boston and New York: Houghton Mifflin Company. 1919.

The two volumes of former Senator Beveridge's "Life of John Marshall" now under review complete a work which will rank in American literature not only as the leading biography of the greatest of our Chief Justices, but also as one of the most instructive histories of the American nation in its formative period.

In the period covered by the present volumes — the years from 1800 to 1835 — John Marshall was the principal judicial moulder of American public law; and he was also one of America's leading statesmen. Owing to his learning and skill as a jurist, and especially to his sure grasp of the meaning and purpose of the American Federal Constitution, he was able, by means of his judicial decisions, to shape American institutions along the lines of strength and of unity. Not only did Marshall preserve the Union against disruptive influences in his own time, he also did more than any other statesman, if we except only Lincoln, to preserve the Union in the period of the Civil War. It was Marshall's great achievement that he established a body of sound constitutional doctrine which has served as the bulwark of the Republic in all the periods of its danger from the attacks of hostile forces. Lincoln and the men who worked with him for the Northern cause could hardly have held the states together as a complete and organic whole if they had not built upon the opinions, the sentiments, the tendencies, and the constitutional and legal framework of Federalism, which had been endowed by Marshall with the life and vigour emanating from his genius as a constructive jurist-statesman.

Senator Beveridge's two volumes place this great service of Marshall to his country in its setting of historical environment. In their pages the figure of the man himself stands forth among the other jurists and statesmen of the time. We see them all very clearly and distinctly as they play their parts in the drama of the national life in the early nineteenth century; but above Chase, Burr, Randolph, Wirt, Adams, Jay, and Jefferson, and even above Hamilton, Story, and Kent, towers the majestic personality of the Chief Justice. All of these men of the period were shaping the political and social forces of the nation, and especially the forces of Federalism and Republicanism. But John Marshall, as Chief Justice of the Supreme Court, was in control of a constitutional instrument of commanding power. In Senator Beveridge's volumes we have a vivid picture of Marshall as he uses this instrument in the shaping of those legal and political policies of Federalism which have ever since characterised the American Republic and given it its place among the nations. It is this service of Marshall to the Republic which Senator Beveridge emphasizes in his enlightening and dramatic story of the times.

It is well that the emphasis should be placed upon Marshall's personality and achievement. In a life of Marshall we want the great constitutionalist to play the leading rôle; and, after all, in the biographies of his contemporaries we may find the necessary readjustments of perspective. In reading the biographies of all great men we are entitled to be hero-worshippers if we wish it.

In reading Mr. Beveridge's "Life of John Marshall" we have a vision of the majesty of the Supreme Court; and we exercise our right to admire the heroic Chief Justice as the personification of this majesty.

The scope of the two volumes may be briefly indicated. Volume III deals with the period of "conflict and construction" (1800-1815). The victory of Republicanism led to the assault on the Judiciary; and the power of the Judiciary over legislation was the supreme issue. In this political environment Marshall delivered his celebrated opinion in *Marbury v. Madison*, that an Act of Congress was unconstitutional and void, and must be disregarded by the court. Then followed the Republican plan to subjugate the Judiciary: Federalist judges were to be ousted and Republicans put in their places by a programme of impeachment. The chief object of attack in the impeachment of Mr. Justice Chase of the Supreme Court was undoubtedly the Chief Justice himself; but Chase's acquittal saved the independence of the National Judiciary and made Marshall for the first time secure in the office of Chief Justice. Mr. Beveridge is right in his conclusion that "one of the few really great crises in American history had passed." The setting forth of the causes, progress, and termination of this crisis constitutes the first of the two main tasks of the biographer in Volume III; and any impartial critic of the biographer's work must pronounce it illuminating and just. The latter part of Volume III is concerned in large measure with the conspiracy, capture, and arraignment of Aaron Burr, and the part played by Marshall in the Burr trials. The contest, in the course of the Burr case, between Jefferson and Marshall — between the Executive and the Judiciary — is admirably set forth. To the lawyer the chapter dealing with the Chief Justice's views upon treason is one of the most interesting.

Volume IV deals with "the building of the nation" and with the great cases on constitutional and international law decided by the Supreme Court in the period from 1815 to 1835. Chapter IX presents to us John Marshall as "the supreme conservative," and incidentally tells us of his share in the work of the Virginia Constitutional Convention of 1829-1830.

Throughout both volumes the opinions of the Chief Justice are placed in their setting of political and social life. It is true, as Mr. Beveridge at one place remarks, that "the history of the times is a part of his greatest opinions." It is equally true to say that the history of his greatest opinions is a part of the times. One of the chief merits of both the volumes now under review is that the opinions and the times in which they were delivered are for the first time adequately treated as integral parts of one and the same thing. Mr. Beveridge's volumes do not profess to be treatises on law. Indeed, in his own words, "care has been taken to avoid making any part of the 'Life of John Marshall' a legal treatise." But the reader of legal treatises who wishes to see the law (as shaped by Marshall) in its historical environment, will be well advised to study it in Mr. Beveridge's volumes.

The volumes contain portraits of Marshall and of many of his contemporaries, and also lists of the works cited by the author. The appendices to Volume III contain the paragraph omitted from the final draft of Jefferson's Message to Congress of December 8, 1801; a letter of John Taylor to John Breckenridge containing arguments for the repeal of the Federalist National Judiciary Act of 1801; cases of which Chief Justice Marshall may have heard before he delivered his opinion in *Marbury v. Madison*; a valuable note on recent books and articles on the doctrine of judicial review of legislation; the text, as generally accepted, of the cipher letter of Aaron Burr to James Wilkinson, dated July 29, 1806; an excerpt from the speech of William Wirt at the trial of Aaron Burr; and the essential part of Marshall's opinion on constructive treason delivered at the trial of Aaron Burr on August 31, 1807. Volume IV (pp. 615-668) contains an Index to the four volumes of the complete work.

There are certain main features of the two volumes now under review which it is worth while to indicate. In the first place, these volumes are of great interest and value in that they give us the leading characteristics of Marshall's personality and the chief facts in his public and private life during the years from 1800 to his death in 1835 in his eightieth year. In the second place, the volumes give us much information, presented in an entertaining way, about the life of Marshall's judicial and political contemporaries. The life of Story finds, for instance, a fitting place in the "Life of John Marshall," his friend and colleague. In the third place, the volumes constitute a history of political movements and political parties in one of the most critical periods of American development. In the fourth place, the volumes are a valuable treasury of information on social conditions. In the fifth place, there is a great deal of light thrown by the volumes on the judicial and legal history of the times. In the sixth place, the student of international law will find much of interest. In the words of John Bassett Moore, "it was Marshall's lot in more than one case to blaze the way in the establishment of rules of international conduct." This aspect of Marshall's work is given special treatment in the third chapter of Volume IV. Finally, to the student of American constitutional law Mr. Beveridge's volumes are a storehouse of sound learning. In them the great cases of the early part of the nineteenth century are all set forth — from the point of view of Marshall's biographer and of the historian of the times. As remarked by James Bradley Thayer in his short masterpiece of biography, "John Marshall" — a masterpiece not displaced in the slightest degree by Mr. Beveridge's longer work — "in the field of constitutional law, . . . and especially in one department of it, that relating to the nature and scope of the National Constitution, he was preëminent, — first, with no one second." Senator Beveridge has dealt adequately with Marshall's achievements in this field in which he was so preëminent; and it is this feature of the biography which the lawyer will chiefly prize.

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HISTORY OF ROMAN PRIVATE LAW: PART III, REGAL PERIOD. By E. C. Clark, LL.D., Emeritus Professor of Civil Law in the University of Cambridge, also of Lincoln's Inn Barrister-at-Law. Cambridge: University Press. 1919.

This is the third part of a work the first portion of which, on the Sources, was published as early as 1906 by the late Professor Clark. At his death the author left materials for a further continuation of it, but Mr. Buckland, who prepared the present installment for the press, is of opinion that they are not sufficiently advanced to warrant their publication under Dr. Clark's name.

In estimating the merits and importance of this work, then, it must be remembered that it is only a part, and a posthumous part, of a large plan, undertaken many years ago and never brought to completion. Obviously a judgment of the present volume must somewhat depend upon its place in the author's whole plan and upon the soundness of that plan itself.

Professor Clark was originally moved to undertake the large task of a new history of Roman law by the feeling that existing treatises generally failed sufficiently to distinguish between the law of one period and that of others; the conviction that a development of a thousand years from the primitive law of a small Italian city state to the refinement and universality of the "classical period" cannot be successfully compressed within the treatment of any single period.

This view had been obscured somewhat by the necessity under which many